HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No. 28135 of 2007

28.12.2007

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Between:

Marreddy Sanjeeva Reddy & another

… Petitioners

AND

The District Collector (L.A.),
Krishna District at Vijayawada & another

… Respondents

Counsel for the petitioners : Sri C. Pratap Reddy

Counsel for the respondents : Assistant Government Pleader for Land Acquisition

O R D E R:

This writ petition is filed for a writ of mandamus to declare the action of the respondents in seeking to forcibly take away land admeasuring Ac.0.38 cents and Ac.0.57 cents comprised in Survey Nos. 46/4 and 46/5 respectively situated at Chegantipadu Village, Thotlavalluru Mandal, Krishna District in pursuance of notification dated 29.11.2007 issued under Section 4(1) of the Land Acquisition Act, 1894 (for short, 'the Act') as illegal and arbitrary.

In the affidavit filed in support of the writ petition, the petitioners have stated that in pursuance of notification issued under Section 4(1) of the Act, where under the above-mentioned extents are proposed to be acquired, a notice under Section 5-A was issued to them and in response to the same, they filed their objections on 22.12.2007 and attended the enquiry. The petitioners, however, stated that the said

enquiry is a mere ritual and that even before passing of orders on the objections filed by them, the officials of the respondents have entered their land and are seeking to dispossess them.

Heard Sri C. Pratap Reddy, learned counsel for the petitioners.

In view of the fact that notice was issued to the petitioners, who, in turn, submitted their objections to respondent No.2, I am not inclined to entertain the writ petition and dispose of the same on merits.

In exercise of the power of eminent domain, the State is empowered to acquire the lands of citizens for public purpose. In order to see that such a power is not exercised arbitrarily or for collateral purposes, the Act provides for certain safeguards. Section 5-A is one such measure by which the citizens are given an opportunity to raise their objections and the authority entrusted with the functions of hearing the objections has an obligation to consider the same objectively and take a decision thereon before seeking to proceed further. Except stating that enquiry under Section 5-A is only a ritual, the petitioners have not adduced any evidence in support of the same. Under Section 4(2) of the Act, after notification under Section 4(1) was issued and published in the manner prescribed therein, the officials of the State are entitled to enter the land for the purpose of taking measurements, fixing boundaries, etcetera. This act cannot be construed as an attempt on behalf of the officers to dispossess the owner of the land. There is no material produced by the petitioners to show that the respondents are seeking to dispossess them even before disposing of the objections filed by them. At any rate, the Court cannot countenance such an action on the part of the respondents.

The writ petition is, therefore, disposed of with the direction to respondent No.2 to dispose of the objections filed by the petitioners by affording them an opportunity of personal hearing, if not already given.

It is, however, made clear that till the objections of the petitioners are disposed of, they shall not be dispossessed from the property in question.

As a sequel to disposal of the writ petition, W.P.M.P.No. 36770 of 2007 filed by the petitioner for interim relief is dismissed.

C.V.NAGARJUNA REDDY, J

28.12.2007

Note:
Issue CC by 31.12.2007.
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